

FILED
Superior Court of California
County of Placer

MAY 17 2022

Jake Chatters
Executive Officer & Clerk
By: K. Harding, Deputy

SUPERIOR COURT OF CALIFORNIA
COUNTY OF PLACER

PLACER COUNTY DEPUTY SHERIFFS'
ASSOCIATION,
Petitioner,
vs.
COUNTY OF PLACER,
Respondent.

Case No.: SCV-47770
RULING ON RESPONDENT'S (1)
DEMURRER TO THE AMENDED WRIT
PETITION AND (2) MOTION TO STRIKE
THE AMENDED WRIT PETITION

The hearing on respondent's demurrer to the amended writ petition and motion to strike the amended writ petition came regularly before the court on April 7, 2022 at 8:30 a.m. in Department 42. The appearances of the parties for the hearing were as recited in the court's minutes. The court has carefully read and considered the briefing along with the oral arguments of the parties. The court issues the following ruling on the matters submitted for decision:

Respondent County of Placer's Demurrer to the Amended Writ Petition

Ruling on Request for Judicial Notice

Respondent's request for judicial notice filed on February 2, 2022 and request for judicial notice filed on March 29, 2022 are granted under Evidence Code section 452.

1 Ruling on Demurrer

2 In this current challenge, respondent demurs to all three causes of action. It argues the
3 first cause of action fails since Measure F enacted in 1976 violates Article XI, Section 1(b) of the
4 California Constitution by depriving the Placer County Board of Supervisors of its constitutional
5 authority to set employee compensation. Respondent goes on to challenge the second and third
6 causes of action as derivative of the first cause of action, failing to allege additional facts to
7 support any separate legal theory.

8 A demurrer is reviewed under well-established principles. A party may demur where the
9 pleading does not state facts sufficient to constitute a cause of action, testing the sufficiency of
10 the pleading and not the truth of the allegations or the accuracy of the described conduct. (Code
11 of Civil Procedure section 430.10(e); *Bader v. Anderson* (2009) 179 Cal.App.4th 775, 787.) The
12 allegations in the pleading are deemed to be true no matter how improbable the allegations may
13 seem. (*Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal.App.3d 593, 604.)
14 Further, the pleading must be liberally construed with all inferences drawn in favor of the
15 petitioner. (Code of Civil Procedure section 452; *Quelimane Co. v. Stewart Title Guaranty Co.*
16 (1998) 19 Cal.4th 26, 43, fn. 7; *Perez v. Golden Empire Transit Dist.* (2012) 209 Cal.App.4th
17 1228, 1238.)

18 Respondent's challenge to the first cause of action does not generally rely on purported
19 insufficiencies in the factual allegations. Rather, respondent asserts the claim for violations
20 under Elections Code section 9125 cannot stand since the allegations rely on Measure F, which
21 was invalid and unconstitutional. The right of the people to bring initiatives and referendums are
22 not granted to the people, they are powers reserved by the people. (*Rossi v. Brown* (1995) 9
23 Cal.4th 688, 695.) The courts are zealous custodians of this right, charged with the duty to
24 jealously guard the right of the people, which is often described as one of the most precious
25 rights of our democratic process. (*Ibid.*) In this vein, judicial policy is to apply liberal
26 construction to this power of the people when challenged so that the right is not improperly
27 annulled with doubts resolved in favor of reserving the power. (*Ibid.*) The local initiative power
28 is seen to be even broader than the power reserved under the California Constitution. (*Id.* at p.

1 696.)

2 When considering the liberal construction applied to the initiative power of the people
3 along with the liberal construction that is afforded to a pleading at this stage, the court
4 determines the allegations within the first cause of action are sufficient to withstand the
5 demurrer. To reiterate, the challenge is brought at the pleading stage in an attempt to prevent
6 substantive review of the petitioners' claims. To prevail, respondents need to show an inability
7 of petitioners to proceed on the legal theory espoused in first cause of action, which has not been
8 demonstrated here. The cases cited by respondent are factually distinguishable and, more
9 importantly, address challenges brought beyond the pleading stage.

10 *Gates v. Blakemore* (2019) 39 Cal.App.5th 32, addressed a pre-initiative writ challenge
11 so that the merits of the controversy over the proposed initiatives could be resolved with the trial
12 court holding a hearing on the matter. *Citizens for Jobs and the Economy v. County of Orange*
13 (2002) 94 Cal.App.4th 1311, addressed a successful summary judgment motion where the trial
14 court determined the initiative measure interfering with county board of supervisors' ability to
15 plan and implement various projects was void and unenforceable. After a substantive review in
16 *Meldrim v. Board of Supervisors* (1976) 57 Cal.App.3d 341, the trial judge issued a judgment
17 that determined an initiative measure ordinance setting salaries for members of the board of
18 supervisors was unconstitutional. *Jahr v. Casebeer* (1999) 70 Cal.App.4th 1250, had a
19 substantive hearing on the merits where the trial court determined a proposed initiative
20 establishing compensation for the county board of supervisors was unconstitutional. Even
21 respondent's newly cited case, *Pacifica Firefighters Association v. City of Pacifica* (2022) 2022
22 WL 871260 (*Pacifica*), involved a substantive review of the writ petition with the trial court
23 determining the initiative requiring top step salaries for fire captains to be set at the average for
24 neighboring cities was an unenforceable usurpation of authority granted to the city council. The
25 court cannot determine at this juncture that the claim for violations of Elections Code section
26 9125 is unconstitutional on the face of the pleading even when the judicially noticeable
27 documents are considered. As it stands, the allegations presented in the first cause of action raise
28 a viable claim at the pleading stage.

1 Respondent was vehement during oral argument that this action cannot proceed past the
2 pleading stage based solely upon *Pacifica*. This interpretation of *Pacifica*, however, is not well
3 taken. To reiterate, the court in *Pacifica* reached a substantive determination on the
4 enforceability of the initiative after considering the briefing and oral arguments of the parties.
5 The case does not stand for cessation of dueling constitutional claims at the pleading stage. At
6 this juncture, the court considers whether the claims in the first cause of action of the writ
7 petition are sufficiently pleaded to proceed with the litigation. The court determines the answer
8 to this question is "yes". It makes no determination as to whether the claims will ultimately
9 prevail once a substantive review has been conducted. The demurrer is overruled as to the first
10 cause of action.

11 The third cause of action alleges a claim for declaratory relief, seeking to declare the
12 rights of the parties on an actual controversy between the parties regarding the repeal of Measure
13 F. The allegations within this claim sufficiently plead a cause of action for declaratory relief.
14 The relief seeks specific judicial determinations regarding the validity of the repeal of the prior
15 version of Section 3.12.040, which is distinguishable from that sought in the first cause of action.
16 The demurrer is also overruled as to the third cause of action.

17 The same is not true for the second cause of action, which alleges a violation of Placer
18 County Code Section 3.12.040. The allegations within this claim are conclusory in nature,
19 failing to allege facts in support of the cause of action. Furthermore, the cause of action is not
20 viable against the current iteration of Section 3.12.040. The allegations refer to a version of
21 Section 3.12.040 that is no longer in effect. The demurrer is sustained as to the second cause of
22 action.

23 The final matter to address is whether petitioners should be afforded leave to amend. The
24 court has carefully reviewed the allegations within the amended writ petition along with
25 considering petitioners' opposition to the demurrer. It appears petitioners may be able to remedy
26 the deficiencies in the second cause of action so as to formulate a valid legal claim. The
27 demurrer is sustained with leave to amend since there appears to be an ability to remedy the
28 deficiencies in the second cause of action.

1 The second amended writ petition shall be filed and served by May 27, 2022.

2
3 Respondent County of Placer's Motion to Strike the Amended Writ Petition

4 Ruling on Request for Judicial Notice

5 Respondent's request for judicial notice is granted under Evidence Code section 452.

6 Ruling on Motion

7 Respondent seeks to strike paragraphs 10-63 of the amended writ petition, asserting none
8 of the allegations are relevant to the causes of action alleged in the pleading. A motion to strike
9 may be granted to strike irrelevant, false, or improper matters in a pleading; or to strike a
10 pleading not drawn in conformity with the laws of the state or an order of the court. (Code of
11 Civil Procedure section 436(a), (b).) The grounds for a motion to strike must appear on the face
12 of the pleading or from judicially noticeable matters. (Code of Civil Procedure section 437(a).)
13 Further, the parties are to meet and confer regarding any objections to language prior to the filing
14 of a motion to strike. (Code of Civil Procedure section 435.5.)

15 Initially, the court does not accept respondent's characterization of meet and confer
16 attempts. Respondent takes the position that it had nothing further to discuss after the filing of
17 the amended writ petition since the parties had essentially said all they had to say prior to the
18 filing of the motion to strike. Section 435.5 contemplates a more vociferous attempt to resolve
19 matters. The statute calls for the parties to attempt resolution of objections raised in the motion
20 to strike. Respondent tacitly admits it did not engage in this robust level of informal resolution.
21 The court will expect the parties to adopt a more broadminded interpretation of the informal
22 meet and confer process in the future rather than incorporating prior discussions as a fulfillment
23 of their meet and confer obligations.

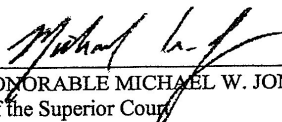
24 The court has carefully reviewed the challenged allegations and determines the
25 allegations in paragraphs 22, 23, 46, 49, and 50 are irrelevant and improperly pleaded. The
26 motion is granted as to these paragraphs. The court strikes paragraphs 22, 23, 46, 49, and 50
27 without leave to amend.

28 The remainder of the paragraphs are sufficiently relevant to the claims alleged in this

1 action so as to stand as pleaded. The motion is denied as to the remainder of the challenged
2 paragraphs.

3 IT IS SO ORDERED.

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5 Dated: May 17, 2022


THE HONORABLE MICHAEL W. JONES
Judge of the Superior Court

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLACER
CLERK'S CERTIFICATE OF MAILING [C.C.P. §1013a(4)]

FILED
Superior Court of California
County of Placer

MAY 17 2022

Jake Chatters
Executive Officer & Clerk
By: K. Harding, Deputy

Case Number: SCV0047770

Case Name: Placer County Deputy Sheriffs' Assoc. vs. County of Placer

I, the undersigned, certify that I am the clerk of the Superior Court of California,
County of Placer, and I am not a party to this case.

I mailed copies of the document[s] indicate below: **ruling on respondent's
demurrer to the amended writ petition & motion to strike the amended writ
petition heard April 7, 2022.**

True copies of the documents were mailed following standard court practices in
a sealed envelope with postage fully prepaid, addressed as follows:

David Mastagni, Esq. Taylor Davies-Mahaffey, Esq. Mastagni Holstedt 1912 I Street Sacramento, CA 95811	Michael Youril, Esq. Liebert Cassidy Whitmore 400 Capitol Mall, Suite 1260 Sacramento, CA 95814
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I am readily familiar with the court's business practices for collecting and
processing correspondence for mailing; pursuant to those practices, these documents
are delivered to: XX the US Postal Service

 UPS

 FedEx

 Interoffice mail

 Other:

On May 17, 2022 in Placer County, California.

Dated: May 17, 2022

Clerk of the Superior Court, Jake Chatters

By:  by Deputy Clerk K. Harding